

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN CHARLES KENNEY,
Plaintiff,

v.

Civil No. 1:00-CV-00-3143
Hon. Judge McClure, Jr.
(Presiding)

JAKE MENDEZ, Warden, et al.,
Defendants.

FILED
WILLIAMSPORT, PA

DEC 18 2001

MARY E. D'ANDREA, CLERK
Per *hp*
DEPUTY CLERK

DECLARATION OF JOHN CHARLES KENNEY SUPPORTING
HIS EMERGENCY MOTION FOR APPOINTMENTED COUNSEL

I, John Charles Kenney, plaintiff, acting pro se hereby declare under penalty of perjury pursuant to the provisions of 28 USC 1746 that on Dec. 3, 2001, I had filed an "Emergency Motion For The Appointment Of Counsel. Based upon the asserted reasons in the Dec. 3rd motion, supported by "Newly Discovered Evidence" (enclosed) pursuant to FRCP 59(e). I genuinely feel that I am "wholly" unfit to be "interrogated" by Defendants regarding deposition ^{absent counsel} at this time. Further, I require counsel to assist me with (the thousands of pages) of discovery. Young v. Quinlin, 960 F.2d 351, 358 (3rd Cir. 1992) (suggesting district court [to] consider appointing counsel to assist prisoner-plaintiff with discovery and trial.) (Hon. Cir. Justice Nygaard Remanded). For the above reasons, I hereby seek the Honorable Court's consideration for appointment of counsel.

Dated: 12/11/01

Kennedy #05238-041

U.S. DEPARTMENT OF JUSTICE
Federal Bureau of Prisons

INMATE INJURY REPORT AND FOLLOW-UP

FOIA-RETRIEVED 9-2-2 (Medical)

1. Institution ALP	2. Name of Injured Kenney, John	3. Register Number 05238-041
4. Injured's Duty Assignment Unassigned	5. Housing Assignment SHU	6. Date and Time of Injury 11-29-01 1230
7. Where Did Injury Happen (Be specific as to location) AD 118	Work Related? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	8. Date and Time Reported for Treatment 11-29-01 1345
9. Subjective: (Injured's Statement as to How Injury Occurred)(Symptoms as Reported by Patient) "I'm stressing"		

Signature of Patient

10. Objective: (Observations or Findings from Examination) Arms: ① vertical cuts up arms ② bleeding ③ dried blood, very superficial, distal pulses intact Chest: ① cuts ② side of chest, superficial, ③ bleeding	X-Rays Taken _____ X-Ray Results _____	Not Indicated <input checked="" type="checkbox"/>
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11. Assessment: (Analysis of Facts Based on Subjective and Objective Data)

S/P cuts

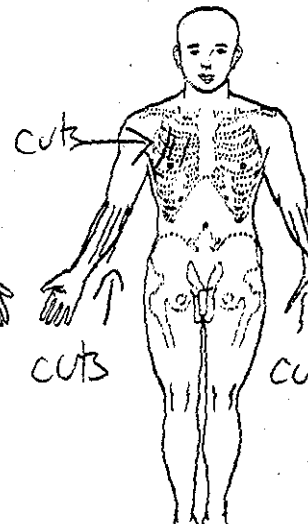
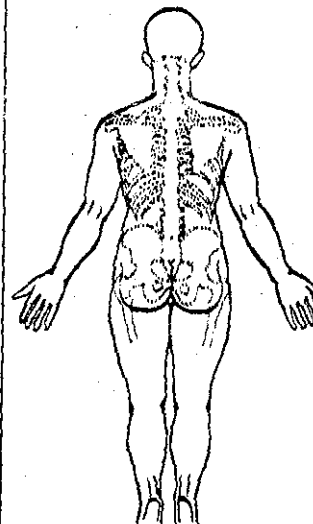
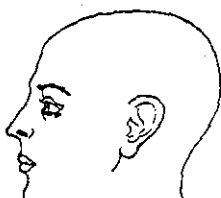
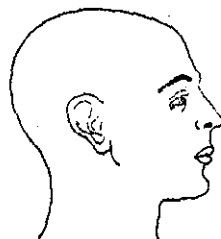
12. Plan: (Diagnostic Procedures with Results, Treatment and Recommended Follow-up)

- ① Clean w/ soap + water
- ② Antibiotic ointment - use daily
- ③ Will ✓ last tetanus shot - 1993

13. This Injury Required:

- ☐ a. No Medical Attention
☒ b. Minor First Aid
☐ c. Hospitalization
☐ d. Other (explain)

- ☐ e. Medically Unassigned
☐ f. Civilian First Aid Only
☐ g. Civilian Referred to Community Physician

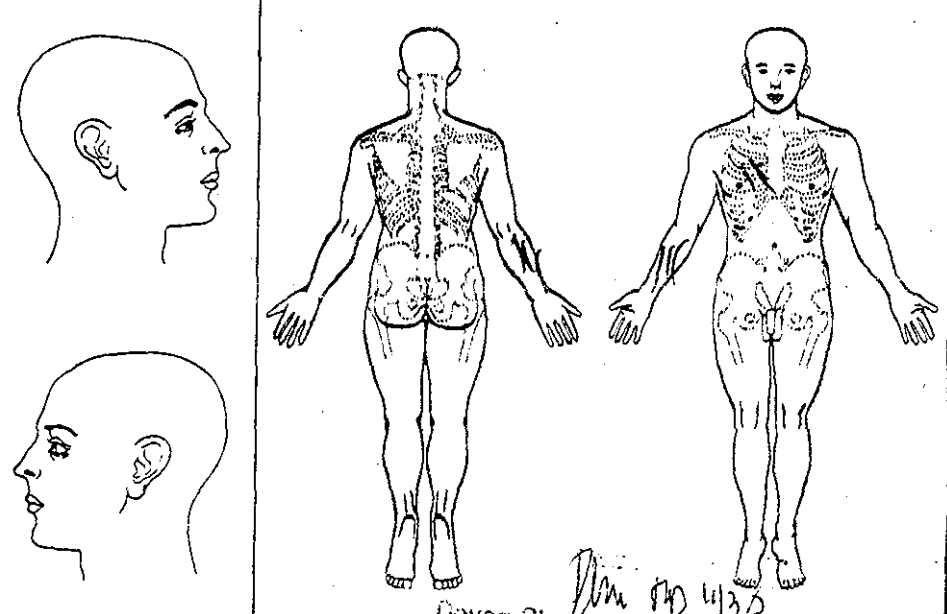


John Charles Kenney # 05238-041

U.S. DEPARTMENT OF JUSTICE
Federal Bureau of Prisons

INMATE INJURY ASSESSMENT AND FOLLOWUP
(Medical)

FOIA-Retrieved 9.1.01

1. Institution USP ALWD	2. Name of Injured KENNEY, JOHN	3. Register Number 05238-041
4. Injured's Duty Assignment SHU	5. Housing Assignment SHU - AD 116	6. Date and Time of Injury 11-29-01 ~ 2150
7. Where Did Injury Happen (Be specific as to location) SHU - 118	Work Related? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	8. Date and Time Reported for Treatment IMMEDIATELY
9. Subjective: (Injured's Statement as to How Injury Occurred)(Symptoms as Reported by Patient) " I TRIED TO HANG MYSELF " OX3 - MAD - VARIABLE AFFECT <i>Kia</i> Signature of Patient		
10. Objective: (Observations or Findings from Examination) MINOR SELF-INFLICTED		X-Rays Taken _____ Not Indicated <input checked="" type="checkbox"/> X-Ray Results
SUPERFICIAL ABRASIONS ON (12) UPPER CHEST + BOTH FOREARMS - PR = 96 BP = 125/66 RR = 20 - TRACHEA MID LINE, CATATICS +/-, (+) GOOD PHENATION		
11. Assessment: (Analysis of Facts Based on Subjective and Objective Data) SUICIDE ATTEMPT / GESTURE		
12. Plan: (Diagnostic Procedures with Results, Treatment and Recommended Follow-up) TO HSD → SUICIDE WATCH - PSYCHOLOGY NOTIFIED		
13. This Injury Required: <input type="checkbox"/> a. No Medical Attention <input type="checkbox"/> b. Minor First Aid <input checked="" type="checkbox"/> c. Hospitalization <input checked="" type="checkbox"/> d. Other (explain) SUICIDE WATCH <input type="checkbox"/> e. Medically Unassigned <input type="checkbox"/> f. Civilian First Aid Only <input type="checkbox"/> g. Civilian Referred to Community Physician <i>[Signature]</i> Signature of Physician or Physician Assistant	 <i>[Signature]</i> Deven Channayam, M.D.	

Original - Medical File

Canary - Safety

Pink - Work Supervisor (Work related only)

Self Carboned Form - If ballpoint pen is used, PRESS HARD

ALP-1330.13B
March 1, 1997
Attachment 1BP-8UNITED STATES PENITENTIARY
ALLENWOOD, PennsylvaniaADMINISTRATIVE REMEDY PROCEDURE FOR INMATES
INFORMATION RESOLUTION FORM

(See Continuation Page Supporting)

NOTE TO INMATE: You are advised that prior to receiving and filing a Request for Administrative Remedy Form BP-9 (BP-229.13), you MUST attempt to informally resolve your complaint through your Correctional Counselor. Briefly state ONE complaint below and list what efforts you have made to resolve your complaint informally and state the names of staff contacted.

Issued By: E. FISHER Initials of Correctional Counselor
Date Issued To The Inmate: 11-16-01

INMATE'S COMMENTS:

1. Complaint: Psychologist being "Deliberately-indifferent" to my psychological needs by overtly denying me psychological/medical care.
2. Efforts you have made to informally resolve: I have repeatedly explained to various Staff Members that Psychology will not help me.
3. Names of staff you contacted: Everyone, Warden-Mendez, Associate Wardens AW(O), AW(P), and AW(C), Captain-Harnes, Lt. Walever, entire Unit I Team.

Date Returned to Correctional Counselor: Mon. Nov. 26, 2001 p.m.

Mr. John C. Kenney
Inmate's Signature

05238-041
Reg. No.

11-26-01
Date

CORRECTIONAL COUNSELOR'S COMMENTS:

1. Efforts made to informally resolve and staff contacted: _____

Date BP-9 Issued: _____

E. Fisher 11-28-01
Correctional Counselor

J. Hub, Acting Unit Mgr.
Unit Manager (Date)

J.L.H.

Continuation on Page Pursuant To BP-8STATEMENT OF FACTS

Currently, I have been in the Special Housing Unit ("SHU") for approximately twenty-seven months (27-months), which is an awful long time. During 6/5/01, 8/8/01, and 9/13/01 I clearly explained to Ms. Trgovac, a member of the Psychology Department that I can no longer sustain the unusual conditions of segregative-confinement anymore. That it is taking a toll on me. It is unbearable and intolerable for me. Meaning this type of confinement is "too great" for me to mentally tolerate. Gelidly, Ms. Trgovac has said, "there is nothing she can, or will do for me". These denials result in "deliberate indifference" to my "serious" psychological [medical] needs.

Grounds For Relief

By virtue of my incarceration, I must rely on Prison Officials, i.e., the Psychology Department to treat me for my "serious" psychological [medical] needs. As such, I'm entitled to such care. See Code of Federal Regulation 28 CFR, SECTION 551.114(a), and 541.22(c).

Relief Requested

I'm requesting Ms. Trgovac, or Psychology to effectuate my psychological interest in regard to that provided above.

Kenneth...

RESPONSE TO ADMINISTRATIVE REMEDY (BP-8)

TO: JOHN KENNEY
REG. NO.: 05238-041

This is in response to your Administrative Remedy Form (BP-8) submitted on November 30, 2001. The Psychology Department sees you on a regular as well as crisis intervention basis while in the Special Housing Unit. Services include counseling for stress management while in the Special Housing Unit and referral to telemedicine. It is not within their power to facilitate your transfer, change your room assignment, or status as single celled.

E. Fisher
Correctional Counselor

U.S. DEPARTMENT OF JUSTICE
Federal Bureau of Prisons

BP-9

REQUEST FOR ADMINISTRATIVE REMEDY

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

From: KENNEY, John C. 05238-041 SHU Allenwood-USP
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A- INMATE REQUEST

Ms. Trgovac, a member of the Psychology Department on 6/5/01, 8/8/01, and 9/13/01 seen me. During these occasions, I had clearly explained to her that, I've been in isolation-segregation for (27-months), and that I can no longer sustain this type of confinement anymore. Gelidly, Ms. Trgovac stated that, "there is nothing she can or will do for me." These denials constitute "deliberate indifference". Ms. Trgovac also fails to conduct periodic SHU reviews of me, nor has she prepared assessments of me indicating the psych problems I'm experiencing. Regulatory DEC. 5, 2001 / violations. SEE 28 Tha John C. Kenney
DATE CFR 541.22(c) SIGNATURE OF REQUESTER

Part B- RESPONSE

DATE

WARDEN OR REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: _____

Part C- RECEIPT

CASE NUMBER: _____

Return to:

LAST NAME, FIRST, MIDDLE INITIAL

REG. NO.

UNIT

INSTITUTION

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN CHARLES KENNEY,
Plaintiff,

Civil No. 1:00-CV-2143
Hon. Judge McClure, Jr.,
(Presiding)

v.

JAKE MENDEZ, Warden, et al., (Magistrate Blewitt)
Defendants.

CERTIFICATE OF SERVICE BY AN INCARCERATED LITIGANT

I, John Charles Kenney, plaintiff, acting pro se hereby certify that on Sunday, December 16, 2001, I forwarded a declaration (single page) carbon-copy, along with five-exhibits "all" supporting a recent "EMERGENCY MOTION FOR THE APPOINTMENT OF COUNSEL." That this material is compliant with FRCP RULE 59(e) "Newly" Discovered Evidence on Reconsideration thereof. I, placed said contents in a post paid first class, preaddressed envelope and mailed it to Defendants' Representative below:

The Honorable Terz
U.S. Attorney's Office
Federal Building, Ste. 316
240 West Third Street
Williamsport PA 17701-6465

Kenney, A00238-141

Civil No. 1:CV-00-2143
For The Presiding Court Only

Sunday, December 16, 2001

Dear, Hon. Judge McClure, Jr.: (U.S. Dist. Ct. Judge)

RE: John Charles Kenney v. Jake Mendez, Warden, et al.

In re. Correspondence For Court's Consideration

Your Honor, I submit the following solely for your consideration. Quite obviously, Defendants' are relying upon invalid reasons for keeping me in isolation-segregation. Nonetheless, resulting in Constitutional deprivations. Inferences of retaliation deriving from redress can certainly be drawn. Meaning Defendants are not playing fair. Because of this, its causing me problems. Moreover, and more importantly, I honestly require assistance of counsel, even though, I am not constitutionally entitled to such. As a result, I seek this Honorable Court's "unbridled and broad" discretion for such appointment. In light of this particular case, where there exist "exceptional circumstances." I also require assistance in discovery, and to rebut Defendants' qualified-immunity (defense-assertions). Intrinsicly, its impossible for me to prevail upon such, from an isolation-segregation-cell. For these asserted reasons, I submit this solely for your consideration. Thank you so much for viewing this.

As always respectfully submitted,

✓
 Enron # 05238-041